IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/08/2003

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

CRL.O.P.No.26631 of 2002
and
CRL.M.P.No.11011 of 2002

1. A.Sathyamurthy
2. K.Subbaraya Gounder
3. R.Senthil Iyyappan
4. S.K.Thangavel
5. S.Punithavathi
6. P.Seethalakshmi
7. K.Sellamuthu
8. P.Manoharan
9. R.Umadevi
10.C.Samiyathaal
11.P.Kanthasamy
12.P.Sivakumar
13.P.Chenniappan
14.C.Palanisamy Gounder .. Petitioners

-Vs-

State by:
Inspector of Police
Economic Offences Wing II
Erode Dist.
Crime No.5/2000 .. Respondent

This criminal original petition is filed under Sec.482 of The Code of Criminal Procedure to call for the records in C.C.No.10 of 2002 on the file of the Special Judge (TNPIDS Act), City Civil Court, Madras and to quash the same.

For Petitioners : Mr.K.Sukumaran

For Respondent : Mr.V.Jaya Prakash Narayanan
Government Advocate(Crl. Side)

:ORDER

This petition is brought forth seeking to quash the charge sheet what was filed in C.C.No.10/02 on the file of the Special Judge (TNPIDS Act),

Madras.
2. As could be seen from the available materials and from the submissions made on both sides, the gist of the prosecution case was that A-1 to A-6, the partnership firms comprising the partners A-7 to A-38 invited deposits from several persons on different schemes, and on its maturity, the deposits along with interest have not been repaid, and thus, A-1 to A-6, the financial establishments within the meaning of Sec.3 of the Act and A-7 to A-38, the partners of A-1 to A-6 firms, were all liable for the offences of cheating and breach of trust along with the offence under Sec.5 of the TNPID Act. After the registration of the case, the matter has been investigated, and a charge sheet has also been laid, and it was taken cognizance by the Special Court constituted for the said purpose at Madras. While so, the petitioners who are shown as A-8, A-10, A-11, A-14, A-16, A-18, A-20, A-21 , A-22, A-24, A-27, A-31, A-35 and A-38 have brought forth this petition stating that they have nothing to do with the above transactions in question; that they have neither invited any deposits nor collected any amount from any of the depositors numbering 250, and they are all residents of Vellakoil, situated 500 kms. away from the City of Madras, and under such circumstances, they have been falsely implicated, and there is no iota of evidence against them, and hence, the charge sheet in their regard has got to be quashed.
3. This petition is strongly opposed by the learned Government Advocate (Criminal Side) stating that the proper investigation has been done; that there are incriminating materials against the accused as to the offences in question; that in view of those materials, the charge sheet should not be quashed, and the trial has got to be conducted after framing necessary charges against the accused by the Special Court.
4. The Court is of the considered opinion that no case is made out to quash the charge sheet what has been now pending on the file of the Special Court in C.C.No.10 of 2002.
5. As could be seen from the available materials, the case of the prosecution was that A-1 to A-6 are partnership firms, wherein all other A-7 to A-38 including the petitioners herein are the partners; and that on the invitations made by the financial institutions through its partners, 250 persons deposited the amounts. According to the prosecution, sufficient materials are available. In such circumstances, the Court is unable to appreciate or agree with the contention of the petitioners' side that they have been living at Vellakoil, situated 500 kms. away, and they have nothing with the offence. The Court is of the view that the question whether the petitioners are liable or not under the provisions of the said enactment could be decided only by adducing necessary evidence both oral and documentary before the Special Court, after the charges are framed against them. Hence, the contentions of the petitioners' side do not merit acceptance by the Court for quashing the case at this stage.
6. In the result, this criminal original petition is dismissed. Consequently, connected Crl.M.P. is also dismissed.

Index: Yes
Internet: Yes

To:

1. Inspector of Police
Economic Offences Wing II
Erode Dist.
Crime No.5/2000
2. The Special Judge (TNPID Act),
City Civil Court,
Madras.

nsv/